

### **REMARKS**

This Amendment is submitted in response to the Office Action mailed on November 27, 2007. Claims 1, 11, 18, 21, 28 and 29 have been amended, and claims 1-4, 6-11, 14-16, 18-22, 28 and 29 remain pending in the present application. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Claims 1, 3-6, 9, 11, 18-19, 21-22 and 28-29 stand rejected under 35 U.S.C. §102(b) as being anticipated by Burgin, U.S. Patent No. 4,156,424. Claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Burgin in view of Brantigan, U.S. Patent No. 5,425,772. Claims 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burgin in view of Baynham et al., U.S. Patent No. 6,224,599. Claims 2, 16 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burgin. Lastly, claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burgin. While Applicant respectfully traverses these rejections, Applicant has amended each of independent claims 1, 11, 18, 21, 28 and 29 to more sharply define the claimed invention over the prior art of record and respectfully request that the rejections be withdrawn.

The Examiner's position set forth in the Response to Arguments section of the Office Action is not understood by Applicant. In particular, Examiner appears to

acknowledge that Applicant's recitation that the first and second paddles "are pivotal" between the open and closed positions (claim 1), the first and second paddles "moving" relative to the bridge between the open and closed positions (claims 11, 21, 28 and 29), and each of the first and second paddles "pivotaly moves" between the first and second positions (claim 18) positively claims the paddles as having to move. The Examiner then follows, however, with the position that if the movement is insignificant, then the paddles have not substantially moved at all.

Applicant respectfully submits that each of independent claims 1, 11, 18, 21, 28 and 29 recites that the first and second paddles are both disposed in a generally horizontal orientation in the closed position, and that when the first and second paddles are moved to the open position, the first and second paddles are both disposed in a generally vertical orientation. Therefore, the claims positively recite more than mere insubstantial movement and, indeed, recite movement of the paddles between generally horizontal and vertical positions. The adjustable speculum of Burgin is simply not capable of such movement as recited in each of independent claims 1, 11, 18, 21, 28 and 29.

While Applicant respectfully traverses Examiner's position for the reasons above, Applicant has amended each of independent claims 1, 11, 18, 21, 28 and 29 to further recite that the first and second paddles are pivotal about respective generally horizontal axes. Support for this amendment is provided at Page 5, lines 6-8 of

Applicant's disclosure, for example, and in the Figures which describe and illustrate pivot hinges (108, 110) that have respective generally horizontal axes as is readily apparent in Figs. 3 and 6.

Applicant respectfully submits that in the adjustable speculum of Burgin, the members (62) are always disposed in a generally vertical orientation regardless of how they are pivoted (i.e., opened or closed) (see Col. 5, lines 12-40 and Fig. 3). The members (62) rotate about respective generally vertical axes defined by the rotational axes of shafts (56) (see Col. 5, lines 12-20). Consequently, Applicant respectfully submits that each of independent claims 1, 11, 18, 21, 28 and 29 defines over Burgin taken alone, or in combination with the other prior art of record, and the rejections of these claims should be withdrawn.

Moreover, as claims 2-4, 6-10, 14-16 and 17-22 depend from allowable independent claims 1, 11, 18 and 21, respectively, and further as each of these claims recites a combination of elements not fairly taught or suggested by the prior art of record, Applicant respectfully submits that these claims are allowable as well.

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### **Conclusion**

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If there is any issue that remains which may be resolved by telephone conference, the Examiner is invited to contact the undersigned in order to resolve the same and expedite the allowance of this application.

Applicant does not believe that this response requires that any fees be submitted, however, if any fees are deemed necessary, these may be charged to Deposit Account No. 23-3000.

Respectfully submitted,

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